

**Consultation Response from KC,  
Highways Development Management**

**2025/93520 Land Off, Burn Road, Birchencliffe, Huddersfield, HD3 3BT**

**Variation of conditions 6 (access and RSA) and 17 (highway layout access and RSA) on  
previous permission 2018/91838 for outline application for erection of residential development**

**Date Responded:** 1<sup>st</sup> February 2026

**Responding Officer:** C Dows

**Responding Ref:** K4-1/50

### **Recommendation – Clarification of Plot Numbers Required**

The application seeks to vary the wording of conditions 6 and 17 of outline permission 2018/91838. The reworded conditions have been requested to enable a start to be made on site on Plots 1 & 2 substructure only.

#### **Existing Conditions (2018/91838):**

6. Notwithstanding the submitted details, a detailed design for the construction of the approved point of access on Burn Road that is based on drawing number 2529 - 03 Rev B shall be submitted to and approved in writing by the Local Planning Authority before development commences. The design details shall include a Stage 1 Road Safety Audit and Designer's Response for the junction. The access shall be constructed in accordance with the approved details and retained thereafter.

**Reason:** To ensure a suitable access and layout in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that highway matters are addressed at an appropriate stage.

17. No development shall take place until a scheme detailing the proposed internal adoptable estate roads has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the proposed phasing of works, full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. The scheme shall be completed in accordance with the details so approved and retained thereafter.

**Reason:** To ensure a suitable access and layout in the interests of highway safety and to accord with Policy LP21 of the Kirklees Local Plan. This is a pre-commencement condition to ensure that highway matters are addressed at an appropriate stage.

#### **Proposed reworded conditions:**

6. Notwithstanding the submitted details, a detailed design for the construction of the approved point of access on Burn Road that is based on drawing number 2529 - 03 Rev B shall be submitted to and approved in writing by the Local Planning Authority before development commences with the exception of plots 1 & 2 substructure. The design details shall include a Stage 1 Road Safety Audit and Designer's Response for the junction. The access shall be constructed in accordance with the approved details and retained thereafter.

17. No development shall take place with the exception of plots 1 & 2 substructure until a scheme detailing the proposed internal adoptable estate roads has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the proposed phasing of works, full sections, drainage works, street lighting, signing, surface finishes and the treatment of sight lines, together with an independent safety audit covering all aspects of work. The scheme shall be completed in accordance with the details so approved and retained thereafter.

**Assessment:**

Proposed Site Plan, Drawing No. 2529-03 Rev. B approved under outline application 2018/91838, indicates plots 1 and 2 are the two most westerly plots, i.e. furthest away from Burn Road. The two plots closest to Burn Road are plots 8 and 9. HDM's understanding is that the Applicant is seeking to commence construction of the substructure of the two plots closest to Burn Road i.e. plots 8 and 9.

It is noted that layout plans submitted under reserved matters application 2021/94719 have amended the layout and re-numbered the plots, with plots 1 and 2 being the plots closest to the site access from Burn Road, the plots it is understood the Applicant wants to make a start on. These plans have a different series of drawing numbers.

Clarification required on plot numbers and to which drawing number these refer.

Subject to clarification and that the plots for which the Applicant is seeking to commence construction of the substructure are the plots closest to Burn Road, HDM are of the view that the proposed rewording of the conditions, whilst not ideal, will not unduly jeopardise the provision of an acceptable access and internal road layout being achieved and therefore have no objection to the rewording of the conditions.

If Planning approve the reworded conditions the Applicant needs to be made aware that they must make urgent contact with the Section 38 Team to initiate the Section 38 process and gain technical approval of the access and layout.

**S38 Agreement - Informative**

The applicant should be aware that the internal street layout will need to be built to adoptable standards if offered for adoption under Section 38 of the Highways Act 1980. The applicant is advised to make early contact with the Highways Section 38 team at [Highways.Section38@kirklees.gov.uk](mailto:Highways.Section38@kirklees.gov.uk) to initiate the Section 38 process, technical approval and agreement. Further information is available on the council's website at: [Highways Guidance Note - Section 38 Agreements for Highway Adoptions \(kirklees.gov.uk\)](https://www.kirklees.gov.uk/highways-guidance-note-section-38-agreements-for-highway-adoptions)

Any future applications for adoption under S37 must demonstrate to the satisfaction of the Highway Authority that all of the roads applied for under S37 have been constructed to an adoptable standard in accordance with [Highways Guidance Note - Section 38 Agreements for Highway Adoptions \(kirklees.gov.uk\)](https://www.kirklees.gov.uk/highways-guidance-note-section-38-agreements-for-highway-adoptions)

Until such time that the S38 (or S37) process has been fully completed, and the Local Highway Authority have confirmed that the streets have been built to an acceptable standard (following the maintenance period), there is no guarantee that the streets will ultimately become adopted highway. Therefore, until the streets have been fully adopted, the purchasers of the properties will be responsible for the ongoing management and maintenance of the streets servicing their properties. It is the developer's responsibility to inform the potential purchasers of the properties of the adoption status of the streets prior to purchase. The potential purchasers must also be advised by the developer of the potential implications of the streets remaining private, should adoption not occur for any reason, which are summarised at paragraph 3.17 of the Kirklees Highway Design Guide SPD (<https://www.kirklees.gov.uk/beta/planning-policy/pdf/highway-design-guide-spd.pdf>), and described in DfT Advice Note 'Highway Adoption' at Annex C 'A Guide for Home Buyers': [Highways Adoption \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/444444/highway-adoption.pdf)